SOFTWARE ESCROW AGREEMENT
RecWare, part of The Active Network, Inc.

This Agreement is made and entered into on _____, 2003, by and between Johnson, Fort, Meissner, and Joseph ("Escrow Agent"), RecWare, part of The Active Network, Inc., a Delaware corporation ("Vendor"), and The City of College Station, TX, ("Licensee").

BACKGROUND

A. Vendor has developed a proprietary computer software package known as "RecWare" (the "Licensed Software").

B. Licensee and Vendor have entered into a license agreement for specifically named "modules" of the Licensed Software. (the "License Agreement").

C. The source code for the Licensed Software (the "Source Code") is required for maintenance and correction of the Licensed Software from time to time.

D. In order to protect its proprietary interest in the Licensed Software, Vendor must maintain the Source Code in strict confidence as its proprietary information, and is therefore unwilling to disclose the Source Code to Licensee except pursuant to an escrow arrangement on the terms and conditions hereinafter provided.

E. Vendor desires to deliver to Escrow Agent a copy of the source code for the Licensed Software, which Vendor desires Escrow Agent to keep in its possession for delivery to Licensee under certain circumstances.

F. Escrow Agent desires to act as custodian of the Source code for the Licensed Software under the terms and conditions specified herein.

G. Vendor and Licensee desire that this Software Escrow Agreement to be supplementary to the License Agreement pursuant to 11 U.S.C. Section 365(n).

NOW, THEREFORE, the parties hereto agree as follows:

1. DEPOSIT IN ESCROW.

Vendor agrees to deposit a copy of the Source Code for the Licensed Software with Escrow Agent as follows:

        (a)   Initial Deposit. Vendor represents that it has delivered to Escrow Agent a sealed package containing the current version of the Source Code for the Licensed Software delivered to Licensee pursuant to the License Agreement, and all associated technical and user documentation, both in machine and human readable forms ("Source Code Deposit").

        (b)   Subsequent Deposits. Vendor agrees to make periodic and additional subsequent Source Code Deposits with Escrow Agent as soon as practicable after such new version is delivered to Licensee.

2. OBLIGATION OF ESCROW AGENT.

Escrow Agent agrees to accept the Source Code Deposits and to act as custodian thereof as long as this Agreement shall be in effect. Escrow Agent shall bear no obligation or responsibility whatsoever to determine the completeness or accuracy of any deposit of a Source Code Deposit or whether what is deposited is or is not the Source Code for the Licensed Software. When Vendor delivers an updated version of the Source Code Deposit to Escrow Agent, Escrow Agent shall return to Vendor the previous Source Code Deposit it held in custody.

3. VERIFICATION.

Licensee shall have the right, at Licensee's expense, to inspect, audit and verify any Source Code Deposit for accuracy, completeness and sufficiency. Such verification process may include, at Licensee's option, assembling and/or compiling the Source Code into executable object code. Vendor agrees to make reasonably available, at its standard consulting rates as in effect from time to time, any technical and support personnel necessary for Licensee's Agent to perform verification of the Source Code, and further agrees to give Licensee's Agent reasonable access to Vendor's facilities, including its computer systems, for the purpose of such verification at no additional charge beyond the

normal hourly rate for service. Vendor and Licensee shall be entitled to have a representative present at all times to observe such verification by Licensee.

4. RELEASE OF SOURCE CODE.

(a) Triggering Event. The "Triggering Event" shall be defined as the Vendor's business operations being liquidated, or if the Vendor fails to continue in business (except to the extent that such business, as it relates to the Licensed Software, has been acquired or assumed by another entity)".

(b) Release. Upon the occurrence of a Triggering Event, Escrow Agent agrees and is hereby specifically authorized to provide to Licensee, a copy of the Source Code Deposit held by Escrow Agent, provided that Licensee submits a written request containing an affidavit setting forth the facts indicating that:

     (1) the License Agreement is current and in full force and that Licensee is not in default thereof,

     (2) a Triggering Event described above has occurred and is continuing to occur,

     (3) Licensee is entitled to a copy of the Source Code Deposit held in escrow, and

     (4) the Source Code Deposit shall be used solely by Licensee and solely for Licensee's maintenance and support of the Licensed Software it is licensed to use pursuant to the License Agreement.

A copy of such written request shall be served upon Vendor. Unless within thirty (30) days thereafter Vendor shall file with Escrow Agent an affidavit stating that no such Triggering Event has occurred, or that the circumstances of the Triggering Event no longer exist, Escrow Agent shall thereupon deliver the Source Code to Licensee, and this Agreement shall thereupon terminate.

(c) Disputes. If Vendor files an affidavit objecting to the release of the Source Code Deposit, then Escrow Agent shall not deliver the Source Code Deposit to Licensee until directed to do so by Vendor and Licensee jointly, or until Escrow Agent is ordered to do so by an arbitrator or a court of competent jurisdiction.

In such case, Licensee's entitlement to a copy of the Source Code Deposit shall be submitted to binding arbitration in accordance with the rules of the American Arbitration Association. Vendor and Licensee shall mutually appoint one (1) arbitrator who shall be reasonably familiar with the computer software industry and shall apply applicable law. If Vendor and Licensee fail to appoint an arbitrator within thirty (30) days, then within ten (10) days thereafter each shall select one arbitrator and the two so selected shall select a third. In rendering a decision, the arbitrators shall make specific findings of fact and take into account all applicable judicial precedents and industry practice in the computer software industry. The decision of the arbitrators shall be binding and conclusive on Vendor, Escrow Agent, and Licensee, and judgment upon their decision may be entered in the highest court of any forum, federal or state, having jurisdiction. All costs of the arbitration, including reasonable attorneys' fees and costs incurred by prevailing party shall be paid by the non-prevailing party.

Escrow Agent will be entitled to have his actions hereunder reviewed by his legal counsel and to be represented by legal counsel in any arbitration or litigation described above and the reasonable costs thereof shall be reimbursed by Licensee within 30 days of invoice. Licensee shall also pay to Escrow Agent, within 30 days of invoice therefor, the sum of $250 per hour for time incurred by Escrow Agent in connection with responding to affidavits described above and any arbitration or litigation described above.

5. TITLE TO SOURCE CODE DEPOSIT.

The Source Code Deposit provided to Escrow Agent by Vendor pursuant to this Agreement shall remain the exclusive property of Vendor. The Source Code Deposit may be made available to Licensee only in accordance with the provisions of this Agreement. If the Source Code Deposit is delivered to Licensee pursuant to this Agreement, it shall remain the exclusive property of Vendor.

6. USE OF SOURCE CODE.

If the Source Code is delivered by Escrow Agent to Licensee pursuant to this Agreement, Licensee shall possess and use the Source Code under a nonexclusive license from Vendor pursuant to the terms of the License Agreement, and entitling Licensee to possess and use the Source Code solely for the purpose of maintenance and support of Licensee's authorized copy of the Licensed Software and for no other purpose whatsoever. Notwithstanding any language in the

License Agreement to the contrary, Licensee shall have no right to distribute or disclose the Source Code to any third party.

7. TERMINATION.

This Agreement shall terminate upon the earliest to occur of (i) termination, cancellation or expiration of the License Agreement for any reason, (ii) five (5) years following the effective date of this Agreement, or (iii) upon release and delivery of the Source Code Deposit by Escrow Agent to Licensee pursuant to the terms hereof.

Any party to this agreement may cancel this agreement upon 30 day's written notice to the other parties. In the event this Agreement is cancelled by Escrow Agent, Escrow Agent shall deliver the Source Code to Vendor.

8. ESCROW FEES.

Fees for software escrow service are payable by Licensee to Vendor annually and in advance, and shall be $150.00 for the first year of the term of this Agreement and $ 150.00 for each additional year of the term of this Agreement. All fees and expenses for activities pursuant to this Agreement shall be borne by Licensee; provided, however, that Vendor and Escrow Agent shall each be solely responsible for their own expenses incurred in connection with their respective performances hereunder.

9. PROPRIETARY INFORMATION.

Licensee understands that the Source Code Deposit is proprietary information of Vendor. Licensee agrees that it (i) will not disclose the Source Code; (ii) will not use the Source Code for activities other than those expressly permitted by this Agreement and the License Agreement; and (iii) will take all steps reasonably necessary to protect the confidentiality of the Source Code, to prevent it from entering the public domain, and to insure that it is not disclosed, reproduced, duplicated or used for any unauthorized purpose.

10. ESCROW AGENT'S RIGHTS AND RESPONSIBILITIES.

To induce Escrow Agent to act hereunder, Vendor and Licensee agree that:

(a) Escrow Agent shall not, by reason of its execution of this Agreement, assume any responsibility or liability other than for the performance of its obligations with respect to the Source Code Deposit held by it in accordance with this Agreement. Escrow Agent shall act hereunder as a depository only and shall not be responsible for the accuracy, sufficiency, correctness, genuineness, completeness, or validity of the Source Code deposited with it, nor shall it have any obligation to ensure that Vendor deposits updated versions of the Source Code with it. Escrow Agent shall not be liable for any failure of either Vendor or Licensee to comply with any of the provisions of this Agreement.

(b) Escrow Agent shall not be under any duty to give the Source Code held hereunder any greater degree of care than it gives its own highly confidential property. Escrow Agent may store the Source code in a file maintained with other files of Escrow Agent in Escrow Agent's office or storage. Escrow Agent shall not be responsible for any loss of the Source Code resulting from any fire or casualty loss and shall not have any obligation to insure the Source Code against loss by fire or other casualty.

(c) With respect to Licensee, Escrow Agent may act in reliance upon any written instrument signed by Licensee's President or an authorized delegate. Escrow Agent may, in good faith, act upon such written instrument without further inquiry or investigation.

(d) With respect to Vendor, Escrow Agent may act in reliance upon any written instrument signed by Vendor's President or an authorized delegate. Escrow Agent may, in good faith, act upon such written instrument without further inquiry or investigation.

(e) Escrow Agent may act relative hereto upon advice of counsel in reference to any matter connected herewith and shall not be liable for any mistake of fact, error of judgment, or any acts or omissions of any kind, unless caused by its willful misconduct or gross negligence. Licensee and Vendor release and exonerate Escrow Agent from any claim, loss, damage or liability resulting to Licensee or Vendor or their successors in interest resulting from Escrow Agent's good faith (determined in Escrow Agent's reasonable discretion) compliance with any written instrument signed by Licensee or Vendor. To the extent allowed by law, Licensee and Vendor shall indemnify and

hold harmless Escrow Agent from and against any and all claims, loss, liability or damage incurred by Escrow Agent in connection with carrying out Escrow Agent's duties hereunder, absent gross negligence or intentional wrongdoing.

(f) This Agreement sets forth the exclusive duties of Escrow Agent with respect to any and all matters pertinent hereto and no implied duties or obligations of Escrow Agent shall be read into this Agreement.

(g) Escrow Agent shall not be called upon to advise any party as to its rights and obligations hereunder.

(h) Escrow Agent does not have and will not have any interest in the Source Code or any part thereof held hereunder in that Escrow Agent is serving only as escrow holder and has only possession of the Source Code.

(i) The rights created by this Agreement shall inure to the benefit of, and the obligations created shall be binding upon, the successors and assigns of Escrow Agent and all other parties to this Agreement.

11. NOTICE.

Any notice provided for hereunder shall be sufficient only if made by registered mail or by hand, with receipt confirmed by addressee, to the following:

Escrow Agent:	Johnson, Fort, Meissner, & Joseph 1555 River Park Drive, Suite 108 Sacramento, CA 95815-4666 Attn: John Meissner
Vendor:	RecWare, part of The Active Network, Inc. 937 Enterprise Dr. Sacramento, CA 95825 Attn: Duane Harlan, President
Licensee:	City of College Station 1101 Texas Avenue South College Station, TX 77840

12. GENERAL PROVISIONS

(a) Time of Essence. Time is of the essence in all terms and conditions hereof. In determining any time period herein, the day upon which action is taken to start the period shall not be counted and the period shall end on the last designated day of the period.

(b) Assignment. This Agreement may not be assigned by Escrow Agent or by operation of law to any other person, persons, firms, or corporation without the express written approval of Vendor. If such assignment is made, Licensee shall be notified by Vendor in writing within 30 days.

(c) Notices. All notices and demands hereunder shall be in writing and shall be served by personal service or by mail at the address of the receiving party set forth in this Agreement (or at such different address as may be designated by such party by written notice to the other party). All notices or demands by mail shall be by certified or registered mail, return receipt requested, or by nationally-recognized private express courier, and shall be deemed complete upon receipt.

(d) Governing Law. This Agreement shall be governed by and construed in accordance with the substantive laws of the State of California.

(e) Relationship of the Parties. Each party is acting as an independent contractor and not as an agent, partner, or joint venturer with any other party for any purpose. Except as provided in this Agreement, no party shall have any right, power, or authority to act or to create any obligation, express or implied, on behalf of any other party.

(f) Force Majeure. Neither party shall be responsible for delays or failure of performance resulting from acts beyond the reasonable control of such party. Such acts shall include, but not be limited to, acts of God, strikes, walkouts, riots, acts of war, epidemics, failure of suppliers to perform, governmental regulations, power failure(s), earthquakes, or other disasters.

(g) Survival of Certain Provisions. The confidentiality obligations set forth in the Agreement shall survive the termination of the Agreement by either party for any reason.

(h) Headings. The titles and headings of the various sections and paragraphs in this Agreement are intended solely for convenience of reference and are not intended for any other purpose whatsoever, or to explain, modify or place any construction upon or on any of the provisions of this Agreement.
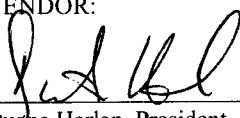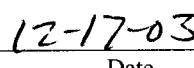
(i) All Amendments in Writing. No provisions in either party's purchase orders, or in any other business forms employed by either party will supersede the terms and conditions of this Agreement, and no supplement, modification, or amendment of this Agreement shall be binding, unless executed in writing by a duly authorized representative of each party to this Agreement.

(j) Entire Agreement. The parties have read this Agreement and agree to be bound by its terms, and further agree that it constitutes the complete and entire agreement of the parties and supersedes all previous communications, oral or written, and all other communications between them relating to the license and to the subject matter hereof. No representations or statements of any kind made by either party, which are not expressly stated herein, shall be binding on such party.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, effective as of the date first above mentioned.

ESCROW AGENT: VENDOR:

_____   _____   12-17-03
John Meissner   Date   Duane Harlan, President   Date

LICENSEE:

Signed: _____ Date: _____

Printed Name: ___Ron Silvia_____

Title: ___Mayor_____

ATTEST:

_____   Date:_____
Connie Hooks, City Secretary

APPROVED:

_____   Date:_____
Thomas E. Brymer, City Manager

_____   Date:_____
City Attorney

_____   Date:_____
Charles Cryan, Director of Fiscal Services